PartsRiver, Inc. v. Shopzilla, Inc. et al Doc. 1

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PARTSRIVER, INC.
Plaintiff,

vs.

SHOPZILLA, INC.; VALUECLICK, INC.; PRICERUNNER LIMITED; YAHOO!, INC.; PRICEGRABBER.COM, INC.; EBAY, INC.; and MICROSOFT CORPORATION
Defendants

Case No. 2-07CV-440 DF

COMPLAINT

Plaintiff, PARTSRIVER, INC. ("PartsRiver"), for its cause of action against Defendants, Shopzilla, Inc., ValueClick, Inc., Pricerunner Limited, Yahoo!, Inc., PriceGrabber.com, Inc., eBay, Inc., and Microsoft Corporation ("Microsoft") states and alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for patent infringement relating to U.S. Patent No. 6,275,821 for "Method and System for Executing a Guided Parametric Search." A copy of U.S. Patent No. 6,271,821, ("the '821 Patent") is attached hereto as Exhibit "A".

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because each of the defendants reside in and have committed substantial acts of infringement in this District, including using, offering to sell products and services covered by and/or whose use induces or contributes to the infringement of one or more of the patents owned by PartsRiver

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PARTIES

4. PartsRiver is a Delaware corporation with its principal offices in Fremont, California. It provides services and licenses products throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas.

5. Shopzilla, Inc., is a California corporation which maintains its principal offices in Los Angeles, California. It sells or offers for sale products or services throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas, and within and throughout the counties that comprise the Marshall Division.

6. ValueClick, Inc., is a California corporation which maintains its principal offices in Westlake Village, California. Pricerunner Limited, is organized under the laws of the United Kingdom, but maintains an office in Westlake Village, California. ValueClick, Inc., and Pricerunner Limited, sell or offer for sale products or services throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas, and within and throughout the counties that comprise the Marshall Division

7. Yahoo!, Inc., is a Delaware corporation, which maintains its principal offices in Sunnyvale, California. It sells or offers for sale products or services throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas, and within and throughout the counties that comprise the Marshall Division.

8. PriceGrabber.com, Inc., is a Delaware corporation, which maintains its principal offices in Los Angeles, California. It sells or offers for sale products or services throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas, and within and throughout the counties that comprise the Marshall Division.

9. eBay, Inc., is a Delaware corporation, which maintains its principal offices in San Jose, California. It sells or offers for sale products or services throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas, and within and throughout the counties that comprise the Marshall Division.

10. Microsoft Corporation is a Washington corporation, which maintains its principal offices in Redmond, Washington. It sells or offers for sale products or services throughout the United States, including sales and distribution in the State of Texas, within the geographic area of the Eastern District of Texas, and within and throughout the counties that comprise the Marshall Division.

FACTUAL BACKGROUND

11. PartsRiver is successor to Saqqara, Inc., a company that was in the business of providing software products and services for managing product information. In that connection, Saqqara, Inc., was responsible for developing a method and process for searching product catalogues that provided an efficient and easy process for searching and identifying products. Saqqara, Inc. obtained the '821 patent by assignment. PartsRiver, in turn, acquired the patent by assignment from Saqqara, Inc. dated April 3, 2006, recorded April 26, 2006. By reason of this

Assignment, PartsRiver became entitled to recover for any claim for infringement of the patent, whether that claim arose prior to or after the date of the assignment.

12. Shopzilla, Inc., transacts business in Texas and in the Eastern District of Texas, but does not maintain a regular place of business in Texas. Through its sites, "Shopzilla.com" and "Bizrate.com", Shopzilla, Inc., infringes USA Patent No. 6,275,821. Shopzilla, Inc., conducts substantial business in the Eastern District of Texas on a regular basis, and is amenable to service of process in this action by serving its registered agent C T Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

13. ValueClick, Inc., and Pricerunner Limited, transact business in Texas and in the Eastern District of Texas, but do not maintain regular places of business in Texas. Through their site, "PriceRunner.com", ValueClick, Inc., and Pricerunner Ltd., infringe USA Patent No. 6,275,821. ValueClick, Inc., does business in Texas, though it has failed to designate and maintain an agent for service of process in Texas. As such, substitute service of process on the Texas Secretary of State is proper for forwarding to its principal offices, ValueClick, Inc., Attn: James R. Zarley, President, 30699 Russell Ranch Road, Suite 250, Westlake Village, California. PriceRunner Limited, does business in Texas, though it has failed to designate and maintain an agent for service of process in Texas. As such, substitute service of process on the Texas Secretary of State is proper for forwarding to its principal offices, PriceRunner, Ltd, Attn: James R. Zarley, President or Director, 30699 Russell Ranch Road, Suite 250, Westlake Village, California. Service may also be made by serving PriceRunner, Ltd, Attn: Anna-Carin Ivarsson, Operations Manager, 30699 Russell Ranch Road, Suite 250, Westlake Village, California.

14 Yahoo!, Inc., transacts business in Texas and in the Eastern District of Texas Through its "Yahoo! Shopping," "Yahoo! Autos," and "Yahoo! HotJobs" web sites, Yahoo!, Inc., infringes USA Patent No. 6,275,821 Yahoo!, Inc, conducts substantial business in the Eastern District of Texas on a regular basis, and is amenable to service of process in this action by serving Yahoo!, Inc.'s registered agent C T Corporation System, 350 North St. Paul Street, Dallas, Texas, 75201.

15 PriceGrabber.com, Inc., through its "PriceGrabber.com" web site, transacts business in Texas and the Eastern District of Texas, but does not maintain a regular place of business in Texas Through this web site, which considers itself "the most trusted and effective online destination for savvy shopping," PriceGrabber.com, Inc., infringes USA Patent No. 6,275,821 PriceGrabber.com, Inc., does business in Texas, though it has failed to designate and maintain an agent for service of process in Texas. As such, substitute service of process on the Texas Secretary of State is proper for forwarding to its principal offices PriceGrabber com, Inc, Attn: Ron LaPierre, President, 475 Anton Blvd., Costa Mesa, California 92626.

16 eBay, Inc, transacts business in Texas and in the Eastern District of Texas Through its sites, "Shopping.com", "Epinions com", and "eBay Express", eBay, Inc., infringes USA Patent No 6,275,821. eBay, Inc, conducts substantial business in the Eastern District of Texas on a regular basis, and is amenable to service of process in this action by serving its registered agent National Registered Agents, Inc, 1614 Sidney Baker Street, Kerrville, Texas 78028.

17. Microsoft, transacts business in Texas and in the Eastern District of Texas. Through its "MSN Shopping" web site, which boasts "Comparison shopping made easy -

Compare 36,751,349 products from over 8,000 stores, all in one place" Microsoft infringes USA Patent No. 6,275,821 Microsoft conducts substantial business in the Eastern District of Texas on a regular basis, and is amenable to service of process in this action by serving Microsoft's registered agent, Corporation Service Company D B A +, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

COUNT I

(Patent Infringement – Shopzilla, Inc.)

18. PartsRiver incorporates paragraphs 1-17 above

19. Shopzilla, Inc., transacts business in the Eastern District of Texas, and throughout the United States It operates the web site "Shopzilla.com", which is a web site that provides information about products and services offered by thousands of retailers Through this web site, Shopzilla, Inc., is infringing one or more of the claims of U S. Patent No 6,275,821

20 Shopzilla, Inc., also operates the web site "Bizrate.com", which is a web site that allows consumers to read and share reviews on millions of products and services. Through this web site, Shopzilla, Inc., is infringing one or more of the claims of U S. Patent No. 6,275,821.

21 In the alternative, Shopzilla, Inc., is inducing and contributing to infringement by others of the '821 Patent, by causing others to use the method and system in the Eastern District of Texas, and throughout the United States, that are covered by one or more of the claims of the '821 Patent

22. PartsRiver is entitled to damages from Shopzilla, Inc., for its direct infringement of the '821 Patent

23. PartsRiver is entitled to damages from Shopzilla, Inc., for its inducing and contributing to infringement by others of the '821 Patent

24. PartsRiver is entitled to an injunction permanently enjoining Shopzilla, Inc., from infringing, directly or indirectly, the '821 Patent

25 PartsRiver's damages from Shopzilla, Inc., for Shopzilla, Inc's direct infringement of the '821 Patent, and for its inducement and contribution to infringement by others of the '821 Patent will be shown at trial, and should not be less than a reasonable royalty.

COUNT II

(Patent Infringement – ValueClick, Inc. and Pricerunner Limited)

26 PartsRiver incorporates paragraphs 1-25 above.

27. ValueClick, Inc., and Pricerunner Limited, transact business in the Eastern District of Texas, and throughout the United States They operate the web site "PriceRunner com", which is a web site that provides product information about products and services offered by thousands of retailers Through this web site, ValueClick, Inc, and Pricerunner Limited, are infringing one or more of the claims of U S Patent No. 6,275,821

28 In the alternative, ValueClick, Inc, and Pricerunner Limited are inducing and contributing to infringement by others of the '821 Patent, by causing others to use the method and system in the Eastern District of Texas, and throughout the United States, that are covered by one or more of the claims of the '821 Patent.

29. PartsRiver is entitled to damages from ValueClick, Inc., and Pricerunner Limited, for their direct infringement of the '821 Patent

30. PartsRiver is entitled to damages from ValueClick, Inc., and Pricerunner Limited, for their inducing and contributing to infringement by others of the '821 Patent

31. PartsRiver is entitled to an injunction permanently enjoining ValueClick, Inc., and Pricerunner Limited, from infringing, directly or indirectly, the '821 Patent.

32. PartsRiver's damages from ValueClick, Inc. and Pricerunner, Ltd., for their direct infringement of the '821 Patent, and for their inducement and contribution to infringement by others of the '821 Patent will be shown at trial, and should not be less than a reasonable royalty

COUNT III

(Patent Infringement – Yahoo!, Inc.)

33. PartsRiver incorporates paragraphs 1-32 above

34. Yahoo!, Inc., transacts business in the Eastern District of Texas, and throughout the United States. It features "Yahoo Shopping" (http://shopping.Yahoo.com), a comparison shopping web site that allows users to find, research, compare and buy products online. Through this site, Yahoo!, Inc., is infringing one or more claims of the U.S. Patent No. 6,275,821.

35. Yahoo!, Inc., also owns and operates "Yahoo Autos" (http://autos.Yahoo.com), which through its "Yahoo Autos Car Finder" allows a user to research, price and compare hundreds of cars online. Through this site, Yahoo!, Inc., is infringing one or more claims of the U.S. Patent No. 6,275,821

36. Yahoo!, Inc., further owns and operates "Yahoo HotJobs" (http://hotjobs.Yahoo.com), which through its "Job Search" feature provides a user with information about thousands of available jobs. Through this site, Yahoo!, Inc., is infringing one or more claims of the U.S. Patent No. 6,275,821.

37. In the alternative, Yahoo!, Inc., is inducing and contributing to infringement by others of the '821 Patent, by causing others to use the method and system in the Eastern District of Texas, and throughout the United States, that are covered by one or more of the claims of the '821 Patent.

38. PartsRiver is entitled to damages from Yahoo!, Inc., for its direct infringement of the '821 Patent

39. PartsRiver is entitled to damages from Yahoo!, Inc., for its inducing and contributing to infringement by others of the '821 Patent

40. PartsRiver is entitled to an injunction permanently enjoining Yahoo!, Inc., from infringing, directly or indirectly, the '821 Patent.

41. PartsRiver's damages from Yahoo!, Inc., for Yahoo's direct infringement of the '821 Patent, and for it inducing and contributing to infringement by others of the '821 Patent will be shown at trial, and should not be less than a reasonable royalty.

COUNT IV

(Patent Infringement – PriceGrabber.com, Inc.)

42. PartsRiver incorporates paragraphs 1-41 above.

43. PriceGrabber.com, Inc., transacts business in the Eastern District of Texas, and throughout the United States. It features "PriceGrabber.com", a website that allows millions of shoppers to find and compare product information about millions of products and services offered by thousands of merchants. Through this site, PriceGrabber.com, Inc., is infringing one or more claims of the U.S. Patent No. 6,275,821.

44. In the alternative, PriceGrabber.com, Inc., is inducing and contributing to infringement by others of the '821 Patent, by causing others to use the method and system in the Eastern District of Texas, and throughout the United States, that are covered by one or more claims of the '821 Patent

45 PartsRiver is entitled to damages from PriceGrabber com, Inc., for its direct infringement of the '821 Patent.

46 PartsRiver is entitled to damages from PriceGrabber.com, Inc., for its inducing and contributing to infringement by others of the '821 Patent.

47. PartsRiver is entitled to an injunction permanently enjoining PriceGrabber com, Inc , from infringing, directly or indirectly, the '821 Patent.

48. PartsRiver's damages from PriceGrabber.com, Inc., for PriceGrabber.com, Inc 's direct infringement of the '821 Patent, and for it inducing and contributing to infringement by others of the '821 Patent will be shown at trial, and should not be less than a reasonably royalty

COUNT V

(Patent Infringement – eBay, Inc.)

49. PartsRiver incorporates paragraphs 1-48 above.

50 eBay, Inc , transacts business in the Eastern District of Texas, and throughout the United States. It operates the web site "Shopping com", which is a web site that provides product information about products and services offered by thousands of retailers Through this web site, eBay is infringing one or more of the claims of U.S Patent No 6,275,821.

51. eBay, Inc, also operates the web site "Epinions.com", which is a web site that allows consumers to read and share reviews on millions of products and services Through this web site, eBay, Inc., is infringing one or more of the claims of U S. Patent No 6,275,821.

52 eBay, Inc., * also operates the web site "eBay Express" (http://www.express.ebay com/), which is a comparative consumer shopping site accessible from the eBay home page Through this web site, eBay, Inc., is infringing one or more of the claims of U.S Patent No. 6,275,821.

53. In the alternative, eBay, Inc., is inducing and contributing to infringement by others of the '821 Patent, by causing others to use the method and system in the Eastern District of Texas, and throughout the United States, that are covered by one or more of the claims of the '821 Patent.

54. PartsRiver is entitled to damages from eBay, Inc, for its direct infringement of the '821 Patent

55. PartsRiver is entitled to damages from eBay, Inc., for its inducing and contributing to infringement by others of the '821 Patent.

56. PartsRiver is entitled to an injunction permanently enjoining eBay, Inc, from infringing, directly or indirectly, the '821 Patent.

57 PartsRiver's damages from eBay, Inc, for eBay, Inc's direct infringement of the '821 Patent, and for its inducement and contribution to infringement by others of the '821 Patent will be shown at trial, and should not be less than a reasonable royalty

COUNT VI

(Patent Infringement – Microsoft)

58 PartsRiver incorporates paragraphs 1- 57 above.

59. Microsoft transacts business in the Eastern District of Texas, and throughout the United States. It features "MSN Shopping", which is a web site that provides product information about products and services offered by thousands of stores. Through this site, Microsoft is infringing one or more claims of the U S. Patent No 6,275,821.

60 In the alternative, Microsoft is inducing and contributing to infringement by others of the '821 Patent by causing others to use the method and system in the Eastern District of Texas and throughout the United States, that are covered by one or more of the claims of the '821 Patent.

61 PartsRiver is entitled to damages from Microsoft for its direct infringement of the '821 Patent.

62 PartsRiver is entitled to damages from Microsoft for its inducing and contributing to infringement by others of the '821 Patent

63. PartsRiver is entitled to an injunction permanently enjoining Microsoft, from infringing, directly or indirectly, the '821 Patent.

64 PartsRiver's damages from Microsoft for Microsoft's direct infringement of the '821 Patent, and for it inducing and contributing to infringement by others of the '821 Patent will be shown at trial, and should not be less than a reasonable royalty.

65. Microsoft's infringement of the '821 Patent is and has been willful, it continues to be willful, and has caused and will continue to cause PartsRiver to suffer substantial damages,

and has caused and will continue to cause PartsRiver to suffer irreparable harm for which there is no adequate remedy at law

WHEREFORE, PartsRiver requests that this Court:

A. Enter judgment that Defendants have infringed, contributorily infringed, and induced infringement of the '821 Patent;

B. Enter judgment that Defendant Microsoft's acts of infringement, contributory infringement, and inducing infringement have been and are willful;

C. Award PartsRiver, and order Defendants to pay, all damages caused to PartsRiver by Defendants' infringement, contributory infringement and/or inducement of infringement, pursuant to 35 U.S.C. § 284, the reasonable royalties, and any and all other compensatory damages available by law;

D. Award PartsRiver, and order Defendant Microsoft to pay, treble damages for PartsRiver's willful infringement of the '821 Patent;

E. Award PartsRiver, and order Defendant Microsoft to pay, increased damages and PartsRiver's reasonable attorneys' fees under 35 U.S.C. § 284-285;

F. Award PartsRiver prejudgment and post-judgment interest and its costs incurred in this action;

G. Permanently enjoin Defendants from infringing the '821 Patent; and

H. Award PartsRiver such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

PartsRiver demands a trial by jury on all issues so triable

Respectfully submitted,

BALDWIN & BALDWIN, L.L.P

Jack Baldwin, Texas State Bar No. 01625330
jbb@baldwinlaw com
(Lead Counsel)
Michael T. Runyan, Texas State Bar No 24033143
michael@baldwinlaw.com
400 West Houston Street
Marshall, Texas 75670
Phone: (903) 935-4131
Facsimile: (903) 935-1397

and

Ken M. Peterson, Kansas State Bar No. 07499
kpeterson@morrislaing.com
Robert W Coykendall, Kansas State Bar No 10137
rcoykendall@morrislaing.com
Will B Wohlford, Kansas State Bar No. 21773
wwohlford@morrislaing com
MORRIS, LAING, EVANS, BROCK
& KENNEDY, CHARTERED
300 N Mead, Suite 200
Wichita, Kansas 67202
Phone: (316) 262-2671
Facsimile: (316) 262-5991

ATTORNEYS FOR PLAINTIFF